

REMARKS

Claims 1-10 are pending in the above-identified application. These claims have been subjected to a Unity of Invention Requirement as follows:

Group I -- claims 1-5 and 8 directed to substituted triazolopyrimidine compounds/compositions of formula I;

Group II -- claims 6 and 7 directed to processes for preparing compounds of formula I;

Group III -- claim 9 directed to a seed comprising a compound or composition of formula I; and

Group IV -- claim 10 directed to the use of the compounds of Group I to control fungi.

Responsive Election

Applicants hereby elect the subject matter of Group I, i.e. claims 1-5 and 8. This election is made with a traversal based on the reasons indicated below.

Reasons for Traversal

It is noted that the Office Action of October 25, 2007, i.e. the Unity of Invention Requirement, asserts that the core ring structure recited in formula I is disclosed in the prior art, such as for example in Gohda et al. (Quantitative Structure-Activity Relationships, 20 (2001), pp. 143-147). It is respectfully submitted that Gohda et al. fails to disclose or suggest compounds having the structure of formula I wherein  $R^1$  and  $R^2$  are the substituents defined in claim 1. Thus, this special technical feature is shared among all of the restricted Groups I, III and IV. It is respectfully submitted that the subject matter of each of these groups is closely related, such that the search and examination of the subject matter in all of these groups would

appear to significantly overlap resulting in no undue burden being placed on the Examiner to examine at least all of the subject matter of Group I, III and IV.

Secondly, it is respectfully requested that the Examiner at least reduce the Unity of Invention Requirement such that at least Groups III and IV be examined together with elected Group I. In this regard, it is noted that in the “Administrative Instructions under PCT” and Annex B (MPEP, rev. 5, August 2006, pp A-157 to A-158), the combination of claims from different categories is permitted under the Unity of Invention Rules. Specifically, Annex B in rule (e)(a) states “...in addition to an independent claim for a given product, an independent claim for a process specially adapted for the manufacture of said product and an independent claim for the use of said product [is permitted]...”. Consequently, at least the subject matter of Group III and IV should be examined together with the elected subject matter of Group I.

Thirdly, it is noted that the Examiner during the international phase found no reason to issue any Unity of Invention Requirement, unlike the present situation.

It is additionally recognized that the Examiner has indicated the possible “rejoinder” of the process claim subject matter of Group II with elected Group I.

*Response to Election of Species Requirement*

In response to the Election Requirement stated at pages 6-7 of the Office Action, Applicant provisionally elects the compound 6-octyl-5-propyl[1,2,4]triazolo[1,5-a]pyrimidin-7-ylamine. This compound is recited in claim 5 and corresponds to Example 2 at page 16 of the specification.


This provisional election is respectfully traversed. It is submitted that the scope of formula I in the present claims is small, such that there is no significant burden placed on the Examiner to examine the full scope of the present claims. Consequently, it is requested that this Election of Species Requirement be withdrawn.

- ☒ Attached is a Petition for Extension of Time.
- ☒ Attached hereto is the fee transmittal listing the required fees.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: December 21, 2007

Respectfully submitted,

By   
Andrew D. Meikle  
Registration No.: 32,868  
BIRCH, STEWART, KOLASCH & BIRCH, LLP  
8110 Gatehouse Road  
Suite 100 East  
P.O. Box 747  
Falls Church, Virginia 22040-0747  
(703) 205-8000  
Attorney for Applicant